



Natural Resources Board Minutes

March 10, 2020

Attendance:

Board Members by Phone:

Marty Illick, Vice Chair, Brad Aldrich, Member, Steve Larrabee, Member

Staff in Person:

Kimberley Lashua, Business Director; Evan Meenan, Associate General Counsel; Katie Emerson, Legal Technician; Morgan Dreibelbis, Legal Intern

Staff by Phone:

Aaron Brondyke, State Coordinator

I. Meeting Convened

11:00 am Evan Meenan, Associate General Counsel opened the meeting via phone conference from 10 Baldwin Street, Montpelier, Vermont 05366-3201. Chair Snelling is out today.

II. Opportunity for public comment on agenda and non-agenda items

Mr. Evan Meenan invited public comments, no comments were made, there were no members of the public present or on the phone.

III. Minutes of February 11, 2020

The Board discussed whether or not to approve the minutes from February 11, 2020. There were no changes proposed, but the Board decided to wait until all members of the Board that were present at the February meeting were available to approve the minutes at the next meeting.

IV. NRB office and budget updates

Ms. Kimberley Lashua, presented the budget and personnel updates. Ms. Kimberley Lashua and Chair Snelling are meeting with the Senate Appropriations committee next week, to present the budget that the Board approved in January.

Interviews for a new compliance and enforcement officer ended last week. We hope to have the process finalized soon.

V. NRB records management policy updates





Mr. Evan Meenan presented two updates to the records management policy approved in November. One is a purely administrative update to reflect a new identification number for transitory records. The second relates to investigations and enforcement records.

In light of the proposed legislative changes to Act250, the Vermont State Archives and Records Administration has recommended we hold off on developing any remaining record schedules until the end of the legislative session. Records schedules will be on hold until the end of May or beginning of June.

Mr. Meenan will be reviewing the records policy at an all staff meeting next week to get people familiar with the policy and discuss policy for LUP records.

Mr. Brad Aldrich made a motion to approve the updated records management policy. Ms. Marty Illick seconded the motion. The records management policy was unanimously approved.

VI. Updates to the Statement of Procedure on Preservation of Primary Agricultural Soils (Criterion 9 (B))

Mr. Aaron Brondyke, State Coordinator, presented updates to the Procedure on Preservation of Primary Agricultural Soils (Criterion 9 (B)) which was last updated in 2012. This topic is also going to be discussed at the Third Thursday discussion on 3/19/20 if anyone would like to join.

The main change was to update Section D, which previously referenced mitigation agreements between the applicant and the Agency of Agriculture, Food and Markets. The Agency found these agreements to be unwieldy and have stopped the practice. Instead the language of the agreement is put directly in the permit as a condition. Other changes include updating the definition of primary agricultural soils (changed by Act 159) and elaborating section E to give more guidance on the option of conservation easements for the preservation of primary agricultural soils.

Ms. Marty Illick made a motion to adopt the updated Procedure on Preservation of Primary Agricultural Soils (Criterion 9 (B)), Mr. Brad Aldrich seconded the motion. The procedure was adopted unanimously.

VII. Discussion regarding Act250 legislative initiatives

Mr. Evan Meenan gave an update on Act250 legislative initiatives. H.926 (the bill to modernize Act250) was voted out of House of Representatives on February 28th. Several changes were made to the bill since it was voted out of the House Natural Resources Committee. These included, but are not limited to, removing the Board reorganization and appropriations for additional staffing, adding provisions regarding recreational trails, and granting the Department of Fish and Wildlife bill back authority.

Staff are monitoring the legislature website for the text of the bill as it passed the House and for when it might be taken up by the Senate.



NATURAL RESOURCES BOARD

10 Baldwin Street
Montpelier, VT 05633-3201

There was a brief discussion on costs of proposed changes and the likeliness that the Senate will pass a version of the bill. This was followed by a discussion on the consistency of land use permit decisions across the state.

VIII. Discussion of appeals, enforcement, and attorney-client memoranda

Mr. Evan Meenan gave an update on two appeal cases that may get media attention. The Diverging Diamond Interchange in Colchester off exit 16 has been in court for a long time. The second trial took place in front of the Environmental Court in February. Everyone is waiting for the court's decision and it is anticipated that there will be a second appeal to the Supreme Court. If that happens the Attorney General's office will be assigned to represent the NRB.

In a related matter, the same appellants in the Diverging Diamond Interchange appeal have appealed the District 4 Commission's decision to grant Costco a land use permit amendment to operate its gas pumps at limited hours to avoid traffic problems addressed in the original permit.

IX. Adjourn

Ms. Marty Illick moved to adjourn the meeting, Mr. Brad Aldrich seconded, the meeting was unanimously adjourned at 11:40 A.M.

